

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, May 20, 2004

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, May 20, 2004, at 3:00 p.m., at Police Headquarters, 1300 Beaubien, Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II
Erminia Ramirez
Jim Holley
Megan Norris

Department Personnel Present

Chief Ella M. Bully Cummings
Deputy Chief Willie Burden
Commander Willie Martin
Insp. Jamie Fields
Insp. Walter Long
Insp. Gail Wilson-Turner
Insp. Turner
Sgt. Erin Stephens
Sgt. Debbie Jackson
PO Mays
PO Huggins
Atty. Nancy Ninowski

Board Staff Present

Dante' L. Goss, Exec. Director
Denise R. Hooks, Attorney/Supervising Inv.
Arnold Sheard, Interim Chief Investigator **(ABS)**
Ainsley Cromwell, Supervising Investigator.
E. Lynise Bryant-Weekes, Personnel Director

OTHERS PRESENT

Ron Scott
Bonnie Mitchell
Gloria Canales
Richard Bogden

Carol Bogden
Rick Jones
Tawana Morris
Mr. & Mrs. Henry Dudzinski
Nancy Youssef, Free Press
Donald Stolberg, D.P.O.A.

RECORDERS

Jerome Adams
Kellie Williams

1. CALL TO ORDER

Chairperson Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:15 p.m.

2. APPROVAL OF MINUTES

♦ Thursday, May 13, 2004

MOTION: **Comm. Holley** made the motion to approve the above Minutes.

SECOND: **Comm. Norris** seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

Chairperson Hampton asked everyone to wish Comm. Norris Happy Birthday.

4. SECRETARY'S REPORT

Suspensions

On May 20, 2004, **Police Officer Charline Gray-Jackson**, Badge 3054, assigned to the Assets and Inventory Control Section, was suspended **without pay** by Chief Ella M. Bully-Cummings.

On April 15, 2004, the Professional Accountability Bureau, Public Corruption Unit, was notified of an allegation of misconduct on the part of Police Officer Charline Gray-Jackson, badge 3054, assigned to the Assets and Inventory Control Section. More specifically, the allegation concerned falsifying and/or misrepresenting time records so as to improperly obtain money and/or property belonging to another. As a result, the Public Corruption Unit initiated an investigation.

The Public Corruption Unit investigation into the incident revealed the following:

On or around February 3, 2004, Deputy Chief Brenda Goss-Andrews, Commanding Officer of the Management Services Bureau, received information concerning a discrepancy in the payment of overtime to Officer Gray-Jackson. As a result, Deputy Chief Goss-Andrews ordered a preliminary investigation. The investigation disclosed that from the time period of October 27, 2003 up to, and including November 9, 2003, Officer Gray-Jackson wrote and submitted for payment 96 hours of overtime. A supervisor did not authorize the overtime, nor was it documented on the Assets and Inventory Control Section's copy of the Time and Attendance sheets.

On or about April 8, 2004, the Professional Accountability Bureau, Financial Review Team, conducted an audit of the Assets and Inventory Control Section's timekeeping operations. The audit disclosed that for Payroll Period 10, up to and including Payroll Period 46, Officer Gray-Jackson submitted and received payment for 174 hours of unauthorized overtime; the total being approximately \$5,708.00.

On April 30, 2004, a warrant request was submitted to the Wayne County Prosecutor's Office. On May 12, 2004, a felony warrant was issued, charging Officer Gray-Jackson with Obtaining Money Under False Pretenses Over \$1,000.00, but less than \$20,000.00, contrary to MCL 750.218. This charge is

a felony punishable by five (5) years in prison and/or a fine of not more than \$10,000.00 or three (3) times the value, which ever is greater.

On May 13, 2004, Officer Gray-Jackson was arraigned in the State of Michigan Thirty-Sixth District Court on the aforementioned charge. A plea of not guilty was entered on her behalf and she was released on a \$1,000.00 personal bond. The preliminary examination is scheduled for June 16, 2004.

Based on the above circumstances, it is recommended that Officer Gray-Jackson be charged with, but not limited to, the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, SECTION 3.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

On May 20, 2004, **Police Officer Frankie Sanchez**, Badge 359, assigned to the Ninth Precinct, was suspended without pay by Chief Ella M. Bully-Cummings.

On May 12, 2004, the Professional Accountability Bureau, Force Investigation Section, was notified of an allegation of misconduct on the part of Police Officer Frankie Sanchez, badge 359, assigned to the Ninth Precinct. More specifically, the allegation concerned the unauthorized use of force, that being, improper or reckless discharge of a firearm in a residential neighborhood, within the city of Detroit. As a result, the Force Investigation Section initiated an investigation. Upon initial investigation, it was discovered that Officer Sanchez provided the department with misleading and/or less than truthful information during the course of the investigation. Thus, the allegation of misconduct also concerns Officer Sanchez' lack of truthfulness during the course of a department investigation.

The Force Investigation Section investigation into the incident revealed the following:

On May 12, 2004, at approximately 1:00 a.m., Sergeant Robert Gerak, badge S-49, assigned to the Fourth Precinct, was on patrol in the area of Springwells and Cahalan completing an investigation, when he heard four (4) gunshots

from a distance. Several minutes passed, and Sergeant Gerak then heard three (3) additional gunshots from about a block away. As a result, Sergeant Gerak's attention was diverted to the direction of the gunfire. Whereupon, Sergeant Gerak observed a silver Ford Expedition (hereinafter Expedition) driving down the roadway and an individual running on foot through a vacant lot. Sergeant Gerak then observed the Expedition back up, turn into the vacant lot, and travel through the vacant lot after the individual running until stopped by uniformed officers from the Fourth Precinct.

Sergeant Gerak responded to the scene of the traffic stop and noticed a red pick up truck in the alley adjacent to the vacant lot, up against a fence with the motor running. Sergeant Gerak then heard what sounded like pounding on a door. Sergeant Gerak then proceeded to the rear of location adjacent to the vacant lot, where he observed an individual hiding behind a washing machine. The individual (hereinafter complainant) indicated to Sergeant Gerak that he was being followed by an Expedition and that the person in the Expedition was firing shots at him. Subsequently, the complainant was identified and taken into custody on an outstanding felony warrant.

After the complainant was taken into custody, Sergeant Gerak heard yelling from the front of the location. At that time, he learned that off-duty Police Officer Frankie Sanchez was the driver of the Expedition and the subject of the traffic-stop. Officer Sanchez was subsequently transported to the Fourth Precinct, where a Breathalyzer Test was administered with a result of 0.14 alcohol level.

Also, at that time, Sergeant Gerak was dispatched to a police run in the 9100 block of Falcon, in the city of Detroit, regarding shots fired in a dwelling. On his way to the Falcon address, Sergeant Gerak was flagged down by two (2) citizens who advised him that they observed an Expedition chasing a red pick up truck on Falcon and that the driver of the Expedition was firing shots at the pick up truck. Subsequently, during the course of the investigation, shell casings were recovered from Falcon Street.

After receiving the information from the citizens, Sergeant Gerak proceeded to the Falcon address, where he was met by a seventy-five (75) year old homeowner, who advised him that she heard gunfire on her street, heard a crash and noticed that her walker had fallen to the ground, and noticed a gunshot hole in her living room wall. The homeowner then handed the shell casing to Sergeant Gerak, indicating that she found it next to her front door.

Officer Sanchez submitted a Preliminary Complaint Record concerning the May 11, 2004 incident, wherein he indicated that on that date at approximately 11:30 p.m., he was visiting a friend in the 9200 block of Lafayette, in the city of Detroit, when he heard his car alarm sound. Officer

Sanchez indicated that upon further investigation, he noticed two (2) individuals running, one into an alleyway and the other into a red pick up truck. Officer Sanchez then indicated that he identified himself as a Detroit Police Officer and pursued the red pick up truck in his Expedition, until the driver of the pick up truck pulled to the side of the roadway. Officer Sanchez then noted that as he was walking up to the red pick up truck, the driver reversed the truck, hitting Officer Sanchez' vehicle. Officer Sanchez also indicated that he was fearful that the driver of the pick up truck was going to hit him. The pick up truck then fled from the scene while Officer Sanchez discharged seven (7) rounds from his privately owned weapon. Lastly, Officer Sanchez indicated that he then followed the pick up truck when, again, the driver reversed and struck Officer Sanchez' vehicle. At this point, Officer Sanchez indicated that the driver of the pick up truck fled into a vacant lot and that uniformed officers from the Fourth Precinct initiated a traffic stop on him, whereupon he (Officer Sanchez) identified himself as a Detroit Police Officer.

As an addendum to his Preliminary Complaint Record, Officer Sanchez noted that upon investigating the activation of his car alarm, he noticed that the driver's side window of his Expedition had been broken.

On May 12, 2004, the complainant provided a witness statement relative to the incident, wherein he indicated that at approximately 11:00 p.m., on May 11, 2004, he was at the Diamond Motel on Fort Street. The complainant further indicated that when he left that location in his red pick up truck, an Expedition began following him and that the driver of the Expedition was firing shots at him. The complainant also indicated that, fearing for his life, he abandoned his red pick up truck in an alleyway with the motor running and ran through a vacant lot to the safety of his friend's home. Lastly, the complainant indicated that at that time, he banged on the door of his friend's home to no avail and that when the police arrived he hid behind a washing machine located in the back yard.

On May 13, 2004, a search warrant was obtained to search the interior of Officer Sanchez' vehicle for gunshot residue, the results of which are pending. Also, a ballistics comparison test on the shell casings recovered on Falcon Street is pending.

On May 14, 2004, the clerk of the Diamond Motel was interviewed and disclosed that on May 11, 2004, at approximately 11:00 p.m., Officer Sanchez and the complainant left the Motel together.

Also, on May 14, 2004, the Medical Section advised that Officer Sanchez' current duty status is restricted with a no gun provision and was so at the time of the incident.

Based on the above circumstances, it is recommended that Officer Sanchez be charged with, but not limited to, the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, SECTION 3.

Unless contravened by this Commission, the above suspension without pay will stand.

DPOA Attorney Stolberg stated it has been stipulated between the Department advocate, Nancy Ninowski and I would like to request to reserve oral arguments on this suspension for two weeks?

Comm. Holley asked could future suspensions be summarized?

Comm. Norris stated we have to provide enough information to the public.

There were no contraventions to the above suspension without pay.

On May 20, 2004, **Police Officer Marlon Terry**, Badge 4428, assigned to the Sex Crimes Unit, was suspended without pay by Chief Ella M. Bully-Cummings.

On May 15, 2004, the Professional Accountability Bureau, Internal Affairs Section, was notified of an allegation of misconduct on the part of Police Officer Marlon Terry, badge 4428, assigned to the Sex Crime Unit. More specifically, the allegation concerned the excessive use of and/or unjustified use of force against his spouse (hereinafter complainant). As a result, the Internal Affairs Section initiated an investigation.

The Internal Affairs Section investigation into the incident revealed the following:

On May 15, 2004, at approximately 5:00 a.m., the complainant returned home after having spent the night out with friends. As the complainant got into bed, Officer Terry got out of bed and went downstairs. Shortly thereafter, Officer Terry's cellular telephone rang, indicating that there was a text message communication. The complainant read the text message and responded thereto as if she were Officer Terry. The complainant then proceeded downstairs, where she advised Officer Terry that he missed a

communication from his girlfriend. The complainant then returned to the upstairs bedroom, with Officer Terry following, whereupon an argument ensued. During the course of the argument, the complainant alleged that Officer Terry choked her, slapped her in the face four (4) to five (5) times, placed a firearm to her head and told her to stay out of his business.

On May 15, 2004, a warrant request was presented to the Wayne County Prosecutor's Office. On that same date, a two (2) count felony warrant was issued charging Officer Terry with Felonious Assault, Domestic Violence and Felony Firearm, contrary to MCL. 750.82 and MCL. 750.227b, respectively. Felonious Assault is a felony punishable by four (4) years in prison and/or a fine of \$2,000.00. Felony Firearm is a felony punishable by two (2) years in prison.

On May 16, 2004, Officer Terry was arraigned in the State of Michigan Thirty-Sixth District Court, on the aforementioned charges. A plea of not guilty was entered on his behalf and he was released on a \$10,000 personal bond. The preliminary examination is scheduled for May 27, 2004.

Based on the above circumstances, it is recommended that Officer Terry be charged with, but not limited to, the following violation of the Detroit Police Department Rules and Regulations:

CHARGE: CONDUCT UNPROFESSIONAL; CONTRARY TO THE LAW ENFORCEMENT CODE OF ETHICS, THIS BEING IN VIOLATION OF THE DETROIT POLICE DEPARTMENT MANUAL, SERIES 100, DIRECTIVE 102.3-5.7, CONDUCT UNBECOMING AN OFFICER, SECTION 3.

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

ANNOUNCEMENT OF GENERAL ORDER (DIRECTIVE)

On May 17, 2004, the Board of Police Commissioners Office received *Directive 305.7*, regarding *Detainee Transportation*. This directive will be presented and discussed at the Board of Police Commissioners' meeting on May 27, 2004.

CITIZEN COMPLAINTS RECEIVED

This Week

Year to Date

Weekly Count of Complaints: **34** **562**

2003

During the past week: 24 **Year to Date:** 435

****Due to the database system being down, the actual breakdown of figures are not available.****

5. REPORT/PRESENTATION – CHIEF OF POLICE

DETROIT POLICE DEPARTMENT

**REPORT TO THE
BOARD OF POLICE COMMISSIONERS**



BUILDING A SAFER DETROIT THROUGH COMMUNITY PARTNERSHIPS.

The Detroit Police Department is committed to uphold its mission to provide a safe environment for our residents and business. This effort is not possible without the joint commitment of the community and the Police Department.

ENFORCEMENT ACTIONS

On May 10-17, 2004, the Narcotics Enforcement and Conspiracy Sections conducted (58) enforcement actions within the boundaries of the city of Detroit and the Metropolitan Airport, resulting in the following arrests and confiscations:

- ◆ 35 Felony arrests
- ◆ 74 Misdemeanor arrests
- ◆ 214.8 Grams of cocaine, 239.5 grams of heroin and 8,837.4 grams of marijuana – street value \$552,370.00
- ◆ \$8,175.00 U.S. currency
- ◆ 5 Handguns

On May 14-16, 2004, the Vice Section conducted enforcement actions within the boundaries of the First Precinct, resulting in the following arrests:

- ◆ 2 Arrests for Resisting and Obstructing a Law Enforcement Officer in the Performance of His/Her Duty
- ◆ 83 Miscellaneous Ordinances issued

TWELFTH PRECINCT

On May 11, 2004, three female citizens were sitting in their vehicle in the area of Fenkell and Tuller, when an unknown armed subject demanded their money and purses. Due to the efforts of officers of the Twelfth Precinct and the involvement of citizens in the area, the wanted subject was arrested shortly thereafter. Confiscated from the subject's vehicle were the purses, money and credit cards belonging to the complainants. On May 12, 2004, the subject was charged with two (2) counts of Robbery Armed, one (1) count of Assault with the Intent to Rob While Armed, and Felony Firearm.

COMMUNITY RELATIONS

AVIATION UNIT

During May 12-18, 2004, members of the Aviation Unit participated in Career Day at Durfee Middle School, located at 2470 Collingwood, and Police Week at the Third, Sixth, Tenth and Eleventh Precincts. Each presentation consisted of the stationary helicopter display (students were allowed to board the aircraft). Also, information was provided regarding the functions and duties of the Aviation Unit and how the aircraft is utilized to assist the department.

EIGHTH PRECINCT – HOME SECURITY AWARENESS

On May 17, 2004, members of the Eighth Precinct met with staff at Sinai-Grace Hospital, to develop a home security awareness program. The goal of this program is to inform the community about the different ways to secure their homes from burglaries.

ELEVENTH PRECINCT – POLICE WEEK

On May 15, 2004, in recognition of Police Week, the Eleventh Precinct hosted an event for elementary, middle and high school students. The purpose of this event was to provide a broad variety of information regarding the operations within the Detroit Police Department. The Michigan State Police, Federal Bureau of Investigation, Wayne County Sheriff's Department, Law Enforcement Explorers, Mounted Unit, Aviation Unit, Canine Unit, and the Blue Pigs gave presentations. Also, in attendance were the Rose of Sharon Church Youth Choir, a Female Rap Group, a Drummer Boys performance, a Saxophone

Bank, WGPR, WJLB, and Channel 7 News. There were clowns, magicians, air bouncers, and plenty of food and fun for everyone.

TRAINING

MENTAL HEALTH AND HOMELESS TRAINING

The Northeast Guidance Center received a Detroit-Wayne County Community Mental Health Agency Grant that provides "Mental Health and Homeless" training for the Detroit Police Department. The purpose of the training is to provide officers with information regarding the issues of homelessness and mental illness, and the problems they may encounter. The following are the training objectives: 1) Provide an understanding of the problem of homelessness, who it affects, and how it arises; 2) Identify symptoms/conditions of the most common mental illnesses affecting this population; 3) Know how to engage and/or de-escalate situations involving mental illness; 4) Know how to access community resources to assist; and 5) Have awareness of the Thirty-Sixth District Court Jail Diversion Programs currently being used.

CHIEF OF POLICE ELLA M. BULLY-CUMMINGS

6. DISCIPLINARY APPEALS – APPEALS SUBCOMMITTEE

Comm. Norris chaired the Appeals Subcommittee:

In the Matter of Disciplinary Appeal, **Police Officer Larry Barnett, badge 2841, BPC 03-020D**, D.P.O.A. Attorney Donald Stolberg represented the petitioner. Attorney Nancy Ninowski, City Law Department represented the Department. The Appeals Subcommittee took the matter under advisement.

In the Matter of Disciplinary Appeal, **Police Officer Vaughn Watts, badge 2395, BPC 04-001D**, D.P.O.A. Attorney Donald Stolberg represented the petitioner. Attorney Nancy Ninowski, City Law Department represented the Department. The Appeals Subcommittee took the matter under advisement.

7. OTHER BUSINESS

Comm. Norris stated we are closing in on the end of the 3rd Quarter of the consent decrees. As you know, some degree of the consent decree involved the Board of Police Commissioners directly and specifically OCI. OCI was required to modify some standard operating procedures, and that has been done. OCI assisted the Department in getting various literature out, regarding how citizens

could make complaints, and that has been done. OCI was required to change some of the language of some of the findings, we now have certain categories of findings and everything has to fall under those, and that has been done.

We are at the point now when the Monitor will begin reviewing our actual reports to see if we are really doing what we now have said that we would be doing. They will be reading our reports to see if they reach findings that are provided by the consent decree and the like.

The only thing that we anticipate that we would not be in compliance is that all of our investigations must be completed within 60 days. It is going to take some time, effort and additional staff to ultimately reach compliance on that.

I am hopeful that were headed in the right direction with that. I don't want anyone to be surprise when we aren't in the first quarter that this is being evaluated. One of the effects of the consent decree is that many more complaints are being filed because things that use to be resolved without a complaint now go to complaint status. Things that we use to not investigate because the complainant would not cooperate, now have to be fully investigated.

I just wanted everyone to know that they are started to audit those things, and I don't know what their report would say or what their findings would be, but that is what we are anticipating.

8. ORAL COMMUNICATION FROM THE AUDIENCE

Bonnie Mitchell voiced concerns regarding an officer being suspended for embezzling money or minor things versus Officer Eugene Brown being promoted for fatally shooting a citizen. She asked Chief Bully-Cummings how would she feel if that happened to her child?

Comm. Norris stated he was not promoted by this Commission.

Chief Bully-Cummings stated I can't speak from a personal perspective, but I would tell you as Chief of Police the decisions were made by the courts and we have to uphold the decisions that are handed down by the courts. I understand and I am very familiar with the situation and the pain that the family is suffering, but we have to abide by judicial decisions that are handed down. How I feel personally is irrelevant it is a matter of upholding the law.

Comm. Norris stated the City's Law Department really took this a long ways. We received plenty of advice that said after we lost with the arbitrator we shouldn't go any further because that was likely to be upheld. The City fought this for this Commission and for this Department. I think none of us are happy

with the result, but it was not for a lack of trying. Ultimately, when a court rules we are stuck with that.

Henry Dudzinski voiced his concerns about a new complaint he filed with the Office of the Chief Investigator, alleging misconduct and obstruction of justice, which involved three investigators from Internal Affairs.

Chairperson Hampton stated we will investigate the lack of service that you are alleging?

Carol Bogden stated she is filing a federal lawsuit regarding a closed complaint she filed with "Internal Investigations."

Comm. Norris asked did you have a case with the Office of the Chief Investigator or with the Department?

Ms. Bogden stated it was with the Office of the Chief Investigator. She also voiced her concern in regarding how long it took to receive the findings of her investigation. She asked if you heard my case, did my case come in front of the Board of Police Commissioners?

Commissioner Norris stated every case that goes to OCI after it is investigated and the report has been prepared, then the report comes to at least one of the commissioners, we don't have a hearing or hear witnesses , but we do get the report and we sign off on the reports. If someone thinks that something has been missed there have been occasions where we have reopened cases. She also stated I am not sure which Commissioner reviewed your file, but we could find out.

Ms. Bogden stated I will be opening two more cases, which will be presented to the Justice Department.

Tawana Morris voiced her concerns regarding discrepancies in how the Detroit Police Department handles or maintains reports and files.

9. ANNOUNCEMENT OF NEXT MEETING

Thursday, May 27, 2004, @ 3:00 p.m.
Police Headquarters, Rm. 328-A
1300 Beaubien
Detroit, MI 48226

10. ADJOURNMENT

Meeting was adjourned at 4:15 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw